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PATENT
SOM01 P-322

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group : 3671
Examiner : G. Hartmann
Applicants : Philip J. Quenzi et al.
Serial No. : 10/804,325
Filing Date : March 19, 2004
For : **APPARATUS AND METHOD FOR IMPROVING THE
CONTROL OF A CONCRETE SCREED HEAD ASSEMBLY**

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
Via Facsimile No. (703) 872-9306

Dear Sir:


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1. Invention Election (2 pages)

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Date: December 16, 2004


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Dear Sir:

INVENTION ELECTION WITH TRAVERSE

This is in response to the Office Action mailed November 16, 2004, having a one month period for response ending December 16, 2004. The Office Action requires a restriction to one of five inventions set forth therein. Applicants provisionally elect Invention I, namely, claims 1-17, drawn to a soft landing control system. This election is made with traverse. Applicants submit that at least Invention II (claims 18-25, drawn to a method of landing), should also be considered because consideration of Inventions I and II are product and process of use claims and would not require any additional search on the part of the Examiner.

The Office Action indicates that Inventions I and II are distinct because Invention I (product) could be used by simultaneously engaging the vibrating member and grade setting device with the concrete surface. Claim 1 includes the limitation that "said control being operable to automatically lower said vibrating member toward and into engagement with the concrete surface after said grade setting device is lowered to the desired grade level" (emphasis added). Applicants thus submit that the invention of claims 1-17 is not used by *simultaneously* engaging the vibrating member and grade setting device with the concrete surface, since such an operation is in stark contrast with the claim language. Moreover, Applicants respectfully submit that the consideration of both inventions I and II would not require any additional searching on the part of the Examiner. Therefore, Applicants respectfully submit that the claims of Inventions I and II should all be considered by the Examiner.

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Furthermore, with respect to the distinction between Inventions I and III, the Office Action indicates that the inventions are distinct because Invention I does not require that the control be operable to delay in lowering the vibrating member and that the subcombination has separate utility as a "tamping machine". The Office Action makes similar distinctions with respect to Inventions I and IV and Inventions I and V. Applicants respectfully submit that the subcombination of claim 26 is specifically claimed as a screeding device, while the combination of claim 1 is specifically claimed as a soft landing control system for a screeding machine, such that neither of the claims is drawn toward a device that has separate utility as a tamping machine. Therefore, Applicants respectfully submit that claims 26-37 of Invention III should also be considered with claims 1-25. Further, Applicants also respectfully submit that claims 38-50 of Invention IV and claims 51-55 of Invention V should also be considered with claims 1-25, for the same reasons as set forth above. All of the claims are drawn toward screeding devices or control systems for screeding devices, and none are drawn toward devices having separate utility as a tamping machine. Reconsideration and withdrawal of the restriction requirement is thus respectfully requested.

Accordingly, Applicants provisionally elect Invention I with traverse, but respectfully request consideration of at least Invention II, and also request consideration of Inventions III-V as well. An early and favorable action on the merits is respectfully requested.


Respectfully submitted,

PHILIP J. QUENZI ET AL.

By: Van Dyke, Gardner, Linn & Burkhardt, LLP

Dated: December 16, 2004.

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